

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

Case No: 02-2252

WITCO CORPORATION,  
Appellant

v.

HERZOG BROTHERS TRUCKING, INC.,

v.

NATIONAL CITY BANK,  
Garnishee

---

On Appeal from the United States District Court  
for the Western District of Pennsylvania  
District Court No.: Misc. No. 96-75 Erie  
District Judge: The Honorable Sean J. McLaughlin

---

---

Argued January 10, 2003

---

Before: SCIRICA, *Chief Judge*, BARRY and SMITH, *Circuit Judges*

---

JUDGMENT

---

This cause came to be heard on the record from the United States District Court for the Western District of Pennsylvania and was argued on January 10, 2003. On consideration thereof, it is now ORDERED and ADJUDGED that the judgment of the District Court granting National City Bank's motion for summary judgment on April 3, 2002, be and same hereby is VACATED, and the matter is REMANDED for further proceedings. All in accordance with the opinion of this Court. Costs taxed against the

Exhibit

C

Appellee-Garnishee.

ATTEST:

\_\_\_\_\_  
Clerk

Dated: June 10, 2005

Certified as a true copy and issued in lieu  
of a formal mandate on July 19, 2005

Teste *Francis M. Waldron*

Clerk, U.S. Court of Appeals for the Third Circuit.

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WITCO CORPORATION	)	
Plaintiff,	)	
	)	
v.	)	
	)	
HERZOG BROTHERS TRUCKING	)	
INC.,	)	
Defendant,	)	Misc. No. 96-75 Erie
	)	
v.	)	
	)	
NATIONAL CITY BANK OF	)	
PENNSYLVANIA	)	
Garnishee.	)	

**ORDER**

AND NOW, this 28<sup>th</sup> day of July, 2005, the Courts previous Order dated April 3, 2002, having been vacated by the United States Court of Appeals for the Third Circuit by Judgement entered June 10, 2005,

IT IS HEREBY ORDERED THAT Witco's Motion for Summary Judgement (Doc. No. 11) is GRANTED and National City's Motion for Summary Judgment (Doc. No. 17) is DENIED.

Judgment is entered in favor of Witco Corporation.

s/Sean J. McLaughlin  
SEAN J. MCLAUGHLIN  
UNITED STATES DISTRICT JUDGE

Exhibit

D